

PATENT
Customer No. 22,852
Attorney Docket No. 10760.0001-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Patrick MOLLER et al.) Group Art Unit: 1795
Application No.: 10/734,223) Examiner: Luan V. VAN
Filed: December 15, 2003) Confirmation No.: 8649
For: METHOD AND ELECTRODE FOR)
DEFINING AND REPLICATING)
STRUCTURES IN CONDUCTING)
MATERIALS)

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

DECLARATION

I, Steven S. Payne, declare as follows:

1. I am the attorney who filed United States Patent Application No. 10/734,223.

At the time I filed this application, I intended that this application be a National Phase filing of corresponding PCT Application No. PCT/SE02/01179.

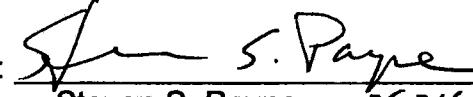
2. In the Inventor's Joint Declaration, I mentioned that we filed corresponding PCT Application No. PCT/SE02/01179 and claimed priority to Swedish Patent Application No. 0102144-3. However, when I filed the application, I inadvertently used the application transmittal form for a Utility Patent Application under 37 C.F.R. § 1.53(b) instead of the correct transmittal form for entry into the National Phase of PCT Application No. PCT/SE02/01179. Instead of treating this application as a National Phase of PCT Application No. PCT/SE02/01179, the United States Patent Office treated

this application as a continuation of the PCT application and did not grant the priority claim to Swedish Patent Application No. 0102144-3.

3. In a first substantive Office Action, the Examiner raised a question concerning the priority claim to Swedish Patent Application No. 0102144-3. On page 2 of my formal response dated October 4, 2007, I cited the Declaration as proof that the priority claim was perfected, and I expressed my understanding that the instant application was a National Phase application for PCT Application No. PCT/SE02/01179, and that priority was properly claimed. The Examiner never responded to this statement, and therefore I had no reason to question that the United States Patent Office did not agree with it. Rather, I assumed that the Examiner accepted my explanation and granted the priority claim.

4. I have just become aware that the United States Patent Office does not believe my priority claim was correct. In reviewing the file history in connection with preparing this Declaration, I realize that when I filed the application, I inadvertently failed to use a transmittal form for a 35 U.S.C. § 371(c) filing. This was an unintentional error, as it was my intention to have used the PCT National Phase transmittal form. This error, and others that I may have made in claiming priority were unintentional. From the written record highlighted above, it is clear that it was my intention, from the date of filing the instant application, to claim priority through PCT Application No. PCT/SE02/01179 to Swedish Patent Application No. 0102144-3. The record further reflects that it was my intention all along that the instant application be a National Phase application of PCT Application No. PCT/SE02/01179.

Date: March 19, 2010

By: 
Steven S. Payne
35,316